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ABN 32 353 260 317

Panel Secretariat  
Joint Regional Planning Panel  
GPO Box 3415  
SYDNEY NSW 2001



D145/11  
GM (PDS)

Dear Sir/Madam

**DA No: 145/11 (JRPP Reference 2011SYE050)**

**Property: 239-247 Pacific Highway, North Sydney**

**Proposal: Demolition of existing buildings and structures, site amalgamation and the erection of an 11 storey mixed use development with 3 levels of basement parking**

Please find attached a copy of the Notice of Determination for the abovementioned development application.

Should you wish to discuss this information or seek clarification of the issues, please do not hesitate to contact the undersigned on telephone number 9936 8100 between the hours of 9:30am and 11:00am, Monday to Friday, or at any time on facsimile 9936 8177.

Yours faithfully

Geoff Mossemeneer  
**EXECUTIVE PLANNER**

Date: 18/10/11



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P.D. Mayoh Pty Ltd  
60 Strathallen Avenue  
NORTHBRIDGE NSW 2063

D145/11  
GM (PDS)

## **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED ROADS ACT 1993, AND LOCAL GOVERNMENT ACT 1993 AS APPLICABLE**

### **Notice to Applicant of Determination of a Development Application**

At its meeting of 6 July 2011, the Sydney East Region Joint Regional Planning Panel, as the consent authority, approved 2011SYE050 – North Sydney – Development Application No. **145/11** for demolition of existing buildings and structures, site amalgamation and the erection of an 11 storey mixed use development with 3 levels of basement parking at **239-247 Pacific Highway, North Sydney** subject to the following conditions:

#### ***A. Conditions that Identify Approved Plans***

##### **Development in Accordance with Plans**

- A1. The development being carried out in accordance with drawings numbered A099C, A100E, A101E, A102F to A104F, A105E to A108E, A109F to A113F, A151D and A160D, dated 21 June 2011, A114D, A150B, A152C to A153C, dated 16 May 2011, A115C, dated 30 March 2011, all drawn by PD Mayoh Pty Ltd, landscape plans numbered 1806-LP-01 to 1806-LP-05, dated 14 March 2011, drawn by John Lock & Associates, and endorsed with Council's approval stamp, except where amended by the following conditions.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

##### **Plans on Site**

- A2. A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)



**Landscaping**

- A3. Landscaping works on the site are to be undertaken generally in accordance with the landscaping plan numbered 1806-LP-01 to 1806-LP-05, dated 14 March 2011, drawn by John Lock & Associates, other than the green wall to the western elevation.

Note:

- The proposed Port Jackson Fig shall be replaced with either a Magnolia “Little Gem” or the like.
- The proposed street tree planting shall be altered such that the northernmost tree is deleted and be planted as a replacement tree, 1 metre to the south of the existing street tree growing adjacent to the traffic lights.

(Reason: To ensure appropriate landscaped area and landscaping amenity at the final inspection stage of the development)

***B. Conditions that require ‘Ancillary’ Matters to be Completed to the Satisfaction of Council or another Nominated Person Prior to Issue of Construction Certificate***

**Construction Management Program – Local Traffic Committee Approval Necessary**

- B1. A Construction Management Program prepared in accordance with Section 23.2 of the North Sydney DCP 2002 shall be submitted and approved in writing by North Sydney Traffic Committee PRIOR TO THE ISSUE OF ANY Construction Certificate. Any use of Council property shall require appropriate approvals prior to such work commencing. The program shall specifically address the following matters:
- a) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
    - i. Dedicated temporary construction site driveway entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways and footways,
    - ii. The proposed signage for pedestrian management to comply with AS1742.3 and AS1742.10, including pram ramps,
    - iii. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site,
    - iv. The locations of any proposed Work Zones in the frontage roadways (to be approved by Council’s Traffic Committee),
    - v. Locations of hoardings proposed,
    - vi. Location of any proposed crane standing areas,

- vii. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries,
  - viii. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected,
  - ix. The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
- b) A detailed heavy vehicle access route map through the Council area to Arterial Roads. Provision is to be made to ensure through traffic is maintained at all times.
  - c) The proposed phases of works on the site, and the expected duration of each phase.
  - d) How access to neighbouring properties will be maintained at all times and the proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of process.
  - e) The road is not to be used as a waiting area for trucks delivering to or awaiting pick up of materials.
  - f) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified engineer and practising structural and shall not involve any permanent or temporary encroachment onto Councils property.
  - g) Proposed protection for Council and adjoining properties. Details are to include site fencing and the provision of "B" class hoardings over footpaths and laneways.

All traffic control work and excavation, demolition or construction activities shall be undertaken in accordance with the approved Construction Management Plan and any conditions attached to the approved plan. A copy of the approved Construction Management Plan, and any conditions imposed on that plan, shall be kept on the site at all times and made available to any officer of Council upon request.

**Notes:**

- 1) North Sydney Council's adopted fee for certification of compliance with this condition shall be payable on lodgement, or in any event, prior to the issue of the relevant approval.
- 2) Any use of Council property shall require appropriate approvals and demonstration of liability insurances prior to such work commencing.
- 3) Failure to provide complete and detailed information may result in delays. It is recommended that your Construction Management Plan be lodged with Council as early as possible, as a minimum six (6) weeks notice is required to refer items to the Traffic Committee.



- 4) Dependent on the circumstances of the site, Council may request additional information to that detailed above.

(Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the demolition process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

***C. Conditions that Require Subsidiary Matters to be Completed Prior to Issue of a Construction Certificate***

**Sydney Water**

- C1. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water web site [www.sydneywater.com.au](http://www.sydneywater.com.au), or telephone 13 20 92.

Following application, a 'Notice of Requirements' will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the coordinator since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. Details of any requirements of Sydney Water are to be provided with the Construction Certificate documentation.

The final Section 73 Certificate must be submitted to the Certifying Authority prior to release of any linen plan for subdivision or prior to occupation of the development.

(Reason: To ensure compliance with the statutory requirements of Sydney Water)

**Dilapidation Report – Damage to Public Infrastructure**

- C2. The applicant must have a dilapidation survey and report (including photographic record) prepared which details the pre-developed condition of the existing public infrastructure in the vicinity of development site. Particular attention must be paid to accurately recording any pre-developed *damaged* areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. The developer may be held liable to damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition. The Applicant shall bear the cost of restoration of all infrastructure damaged as a result of the development, and no occupation of the development shall occur until damage is rectified. A copy of the dilapidation report must be lodged with North Sydney Council by the Certifying Authority with submission of the Construction Certificate documentation.

(Reason: To ensure protection of existing built infrastructure)

**Shoring for Adjoining Property**

- C3. Where any shoring for excavation is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of encroachment and the method of removal and de-stressing of shoring elements, shall be submitted to the Certifying Authority for approval with the Construction Certificate. A copy of this documentation must be provided to the Council for record purposes. Note that any encroachments for shoring techniques will require consent from affected owners, including Council, and that Council will not approve any permanent devices in the road reserve.

(Reason: To ensure the protection of existing public infrastructure and adjoining properties)

**Dilapidation Report – Adjacent Private Property**

- C4. Prior to issue of any Construction Certificate the applicant must submit, for verification by the Certifying Authority (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavation. This zone is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth. A consulting structural/geotechnical engineer must complete the report as determined necessary by that professional, based on the excavations required for the proposal. The report shall have regard to protecting the Applicant from spurious claims for structural damage and must be verified by all stakeholders as far as practicable.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant MUST DEMONSTRATE, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: Proper management of records)



**Bond/Deposit for potential Damage and Completion of Infrastructure Works**

C5. Prior to the issue of any Construction Certificate the applicant must lodge a total of \$78,000 public infrastructure damage and security bond with Council. This bond is applied pursuant to Section 80A (6) of the EP&A Act of the Local Government Act 1993 to cover the cost of:

1. Making good any damage caused to any property of the consent authority (or any property of the corporation) as a consequence of the doing of (or not doing) anything to which the consent relates,
2. Completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent,
3. Remedying any defects in any such public work that arise within 6 months after the work is completed.

The bond is calculated as follows:

<b>Description</b>	<b>Amount</b>
Completion of required infrastructure works	\$52,000
Damage security	\$26,000

The bond shall be lodged in the form of a deposit or bank guarantee and will be refundable following completion of all works relating to the proposed development (that is after issue of Final Occupation Certificate) and at the end of any maintenance period stipulated by consent conditions, upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:

- a) Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
- b) The applicant has not repaired nor commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
- c) Works in the public road associated with the development are to an unacceptable quality.

The Certifying Authority must ensure that bond is lodged with North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure security is in place to maintain quality of public infrastructure)

**Work Zone**

- C6. If a Works Zone is proposed, an application must be made to the North Sydney Local Traffic Committee to install the 'Work Zone'. Works Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Certifying Authority to enable issue of the Construction Certificate. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed (at the cost of the Applicant) and the adopted fee paid prior to commencement of any works on the site. Further, at the expiration of the Works Zone approval, the Applicant is required to remove the Works Zone signs and reinstate any previous signs, all at the Applicant's cost.

(Reason:       Amenity and convenience during construction)

**Required Infrastructure Works – Roads Act 1993**

- C7. Prior to issue of the Construction Certificate the applicant must have engineering design plans and specifications prepared by a qualified civil design engineer. The plans and specifications must be to a detail suitable for construction issue purposes and must provide detail and specification for the following infrastructure works to be completed as part of the development.

Prior to the issue of the Construction Certificate, North Sydney Council must issue the applicant with a driveway crossing and road infrastructure works permit to suit the approved off-street parking facilities. To obtain the permit, an application must be made to Council on a '*Vehicular Access Application*' form with payment of the adopted assessment/inspection fees.

**Road Works on Angelo Street**

- a) The proposed vehicular access ways shall comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor.
- b) The redundant layback crossing on Angelo Street must be reinstated as upright kerb gutter and concrete footpath.
- c) The width of the right vehicular layback shall be 8.5m and the width of the left vehicular layback shall be 10.00m (including the wings for both laybacks) facing the property from Angelo street.
- d) The vehicular laybacks shall be set square to the kerb.



- e) The crossing (between the layback and the property boundary) shall be placed perpendicularly on a single straight grade of approximately 4.5%, falling to the back of the layback.
- f) The boundary footpath levels shall match the existing levels and shall not be altered unless agreed to by Council.
- g) The gutter levels and road shoulder levels on Angelo Street shall stay unchanged.
- h) The kerb, gutter and footpath are to be transitioned as necessary on both sides of the proposed layback crossings to ensure that a minimum longitudinal fall of 1% is achieved to maintain gutter flows. Kerb/gutter and footpath transition works are required to provide continuity on the street.
- i) Any twisting of driveway access to ensure vehicles do not scrape shall occur entirely within the subject property.
- j) All inspection openings, utility services shall be adjusted to match the proposed driveway levels and location.
- k) The design detail must include sections along centre-line and extremities of the crossing at a scale of 1:25. Sections are to be taken from the centre of the roadway through to the parking area itself and shall include all changes of grade and levels, both existing and proposed.
- l) A longitudinal section along the gutter line of Angelo Street at a scale of 1:50 showing how it is intended to transition the layback with the existing gutter levels.
- m) A longitudinal section along the footpath property boundary at a scale of 1:50 is required.
- n) The sections shall show the calculated clearance to the underside of any overhead structure.
- o) All details of internal ramps between parking levels.
- p) A swept path analysis is required demonstrating that an 85th percentile vehicle can manoeuvre in and out of the garage spaces in accordance with AS 2890.1 2004 "Off Street Parking".

**Road Works on Pacific Highway**

- a) Construction of a fully new replacement of footpath is required across the entire site frontage in Pacific Highway. A longitudinal section is required along the footpath property boundary at a scale of 1:50 extending 5m past the property boundary line. The footpath shall be designed (at a single straight grade of 3% falling to top of kerb) so that it is uniform without showing signs of dipping or rising particularly at entrances.

- b) The footpath pavement shall be full width constructed of concrete pavers, in accordance with Council's standard drawings No S401, S403, S404 and S405, placed adjacent to the front boundary of the property. In general, the pavers selected should match any pavers already laid in the same city block.
- c) Construction of a fully new kerb and gutter is required across the entire site frontage in Pacific Highway. A longitudinal section is required along the gutter line (existing and proposed levels), at a scale of 1:50 extending 5m past the property boundary line.
- d) Cross sections at a scale of 1:50 along the centre-line of each access point to the building must be provided and are to show the calculated clearance to the underside of any overhead structure. All entry points (from Pacific Highway and Angelo Street) are to comply with the Building Code of Australia (BCA), particularly disability requirements.
- e) The Council approved footpath levels must be accommodated at the building entry points.

All driveway and infrastructure works on the road reserve must proceed in accordance with the terms of the permit issued by Council. Inspections by Council will be required as specified on the permit. The Certifying Authority issuing the Construction Certificate must ensure that the permit issued by Council is obtained prior to its issue, is referenced on and accompanies the Construction Certificate issued.

(Reason: To facilitate appropriate vehicular access to private sites, without disruption to pedestrian and vehicular traffic)

#### **Awnings, Footpath Entries and Fire Exit Details**

C8. The following details must be designed by an appropriately qualified and practising Civil Engineer and submitted to the Certifying Authority for approval with the application for Construction Certificate:-

- (i) Cross section along the centre-line of each access point to the building including fire exits at a scale of 1:50 to be taken from the centre of the road and shall include all changes of grade both existing and proposed.
- (ii) The sections shall show all relevant levels and grades (both existing and proposed) including those levels stipulated as boundary levels.
- (iii) The sections shall show the calculated clearance to the underside of any overhead structure.
- (iv) A longitudinal section along the boundary line in both Angelo Street and Pacific Highway shall show how it is intended to match the internal levels of the building with the boundary footpath levels. The footpath shall be designed (at a single straight grade of 3% falling to top of kerb) so that it is smooth without showing signs of dipping or rising particularly at entrances.



- (v) A longitudinal section along the gutter and kerb line extending 5 meters past property lines showing transitions.
- (vi) A longitudinal section along the footpath property boundary line extending 5 meters past property lines showing transitions.
- (vii) Awnings edges, parallel to the kerb line must not exceed edges of existing awnings in the same city block or if no other neighbouring awnings to compare, the edges of proposed awning must be offset at least 600 mm from the kerb line.

All details are to be certified as complying with the Building Code of Australia (BCA) and Council's standard footpath specifications. Written concurrence confirming there will be no change to existing boundary and footpath levels is to be provided to North Sydney Council, prior to issue of a Construction Certificate.

(Reason: To facilitate suitable pedestrian and disabled access to private sites, and to ensure that internal levels reflect footpath boundary levels)

**Stormwater Management and Disposal Design Plan – Construction issue detail**

- C9. Prior to issue of the Construction Certificate, the applicant shall have a site drainage management plan prepared by a qualified drainage design engineer. The site drainage management plan must detail the following requirements of North Sydney Council:
- a) Compliance with BCA drainage requirements, Councils Engineering Performance guide and current Australian Standards and guidelines, such as AS/NZ3500.3.2 1998, National Plumbing and Drainage Code.
  - b) Stormwater runoff and subsoil drainage generated by the approved dwellings must be conveyed in a controlled manner by gravity to Council's stormwater gully pit in Angelo Street. When a direct connection to the pit option is implemented then the pipeline within the footpath area shall have a minimum cover of 300mm.
  - c) All civil and drainage works within the road reserve shall be designed and built in accordance with Council's current "Infrastructure Specification". Prior to issue of the Construction Certificate the applicant must have engineering plans and specifications, prepared by a qualified civil drainage design engineer. Council must approve the plans and specifications, in writing, prior to issue of any Construction Certificate by the Certifying Authority. The documentation must provide engineering construction detail for the following public infrastructure works that must be completed as part of the approved development. Council reserve the right of keeping all bonds on infrastructure works for 12 month defects liability period.

- d) On site detention must be provided to ensure that the maximum discharge from the site does not exceed discharge which would occur during a 1 in 5 year storm of 1 hour duration for the existing site conditions. All other stormwater run-off from the site for all storms up to the 1 in 100 year storm is to be retained on the site for gradual release to the kerb and gutter or drainage system as required by Director of Assets and Infrastructure Services. Provision is to be made for satisfactory overland flow should a storm in excess of the above parameters occur.
- e) The stormwater drainage system shall be designed for an average recurrence interval (A.R.I.) of 1 in 20 years.
- f) All redundant stormwater pipelines within the footpath area shall be removed and the footpath and kerb reinstated.
- g) The design and installation of the Rainwater Tanks shall comply with Basix and Sydney Water requirements. Overflow from tank shall be connected by gravity to the stormwater disposal system.

The Certifying Authority issuing the Construction Certificate must ensure that the approved drainage plan and specifications, satisfying the requirements of this condition, is referenced on and accompanies the Construction Certificate.

(Reason: To ensure controlled stormwater management and disposal without nuisance)

#### **Geotechnical Certificate**

C10. A certificate prepared by an appropriately qualified Geotechnical Engineer certifying that the existing rock formations and substrate on the site is capable of:

- a) Withstanding the proposed loads to be imposed;
- b) Withstanding the extent of the proposed excavation, including any recommendations for shoring works that may be required to ensure the stability of the excavation;
- c) Providing protection and support of adjoining properties; and
- d) The provision of appropriate subsoil drainage during and upon completion of construction works.

The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process)



**Sydney Water Approvals**

- C11. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Care Centre to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then see Building and Renovating under the heading Building and Developing, or telephone 13 20 92. The appointed PCA must ensure that a Quick Check agent/ Sydney Water has appropriately stamped the plans before the commencement of building works.

(Reason: To ensure compliance with Sydney Water requirements)

**Maintain Property Boundary Alignment Levels**

- C12. Unless otherwise approved/specified by Council when approving related public infrastructure works, the property boundary alignment levels must match existing. The building plans and specifications issued with the relevant Construction Certificate must be compatible with the relevant levels set by Council in the road reserve.

(Reason: To ensure interface between property and public land remains uniform)

**Garbage and Recycling Facilities**

- C13. An appropriate area shall be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. The following requirements shall be met:
- (a) All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained with a tap in close proximity to facilitate cleaning;
  - (b) Include provision for the separation and storage in appropriate categories of material suitable for recycling;
  - (c) A complementary garbage bin holding bay shall be provided no more than 2m from the Angelo Street boundary of the property
  - (d) Garbage enclosures serving residential units are not to be located within areas designated for non-residential uses; and
  - (e) Garbage enclosures serving non-residential uses are not be located within areas designated for dining purposes.

Details of the storage area are to be provided to, and approved by the Council's Waste Officer prior to issuing of the Construction Certificate.

Note: The applicant may wish to discuss bin storage requirements and location with Council prior to finalisation of the required detail.

(Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste by collection contractors and to ensure bins are not left on the street before and after collection)

### **Sediment Control**

C14. Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including plans and specifications shall be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with North Sydney Council Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Control Plan shall incorporate and disclose:

- (a) All details of drainage to protect and drain the site during the construction processes;
- (b) All sediment control devices, barriers and the like;
- (c) Sedimentation tanks, ponds or the like;
- (d) Covering materials and methods;
- (e) A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing that these design requirements have been met shall be submitted with the Construction Certificate and approved by the Certifying Authority prior to issuing of the Construction Certificate.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

### **Structural Adequacy of Adjoining Properties**

C15. A certificate prepared by an appropriately qualified and practising structural engineer, at no cost to the Council, detailing the structural adequacy of adjoining properties on the Pacific Highway and 3 McLaren Street, and certifying their ability to withstand the proposed excavation and any measures required to be incorporated into the work to ensure that no damage will occur to adjoining properties during the course of the works, shall be submitted to the Certifying Authority with the Construction Certificate application.

(Reason: To ensure the protection and structural integrity of adjoining properties)



**Asbestos & Hazardous Material Survey**

C16. In relation to the demolition of the existing building (or part of a building) on the site:

- (a) A report prepared by an appropriately qualified person is to be submitted to the Certifying Authority, with the Construction Certificate application, detailing whether any hazardous materials exist on the site (e.g. lead in paints and ceiling dust or asbestos).

Note: If no hazardous materials are identified, the demolition may proceed in accordance with AS2601 and the following conditions, including dust control and WorkCover requirements.

- (b) Should any hazardous materials be identified as per item (i), a Work Plan shall be submitted to Council in accordance with AS2601 – Demolition of Buildings. The report shall contain details regarding:
  - (i) The type of hazardous material
  - (ii) The level or measurement of the hazardous material in comparison to National Guidelines;
  - (iii) Proposed methods of containment; and
  - (iv) Proposed methods of disposal.
- (c) Where unacceptably high levels of lead are found in a premises to be demolished, Item (ii) is to be followed, and the soil sample from site is to be tested by a NATA Registered laboratory before and after demolition. This will determine whether remediation of the site is necessary.
- (d) The demolition must be undertaken in accordance with AS2601.
- (e) Any works involving asbestos cement sheeting must be undertaken in accordance with the requirements of the WorkCover Authority in relation to removal, handling and disposing of material, and the Work Safe Australia Asbestos Code of Practice.
- (f) All work involving lead paint removal must not cause lead contamination of air or ground. Particular attention must be given to the control of dust levels on the site.

Details demonstrating compliance with these requirements are to be approved by the Certifying Authority and submitted with the Construction Certificate.

(Note: Further details regarding requirements for removal of hazardous materials can be obtained from the WorkCover website or at [www.lead.org.au](http://www.lead.org.au).)

(Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily)

**Cigarette Butt Receptacle - Commercial**

- C17. That provision be made for cigarette butt receptacles on the site to minimise littering. Cigarette butt receptacles must be provided during building works on any site, and permanently provided to any restaurant/bar/retail/commercial component of the development after construction. Details of the size and the location of the receptacle are to be provided in the Construction Certificate.

(Reason: To ensure that adequate provision is made for builder's waste and waste upon completion of the development)

**Noise from Plant in Mixed Use Zones**

- C18. A certificate from an Acoustic Engineer is to be submitted with the construction certificate certifying that the development and all sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level during the day and evening and not exceeding the background level at night (10.00pm to 6.00 am) when measured at the boundary of the property, and will comply with the Environmental Protection Authority Industrial Noise Policy.

(Reason: To comply with best practice standards for residential acoustic amenity)

**Acoustic Privacy for Residents**

- C19. A certificate from an appropriately qualified Acoustic Engineer is to be submitted with the Construction Certificate certifying that noise levels within dwellings, with windows closed, will not exceed the following:

<u>Location</u>	<u>Control</u>
Recreation/work area	40dB(A)*
Sleeping areas	35dB(A)*

(\* Readings are to be  $L_{Aeq}$  (1 hour), when measured during the noisiest 1 hour period between Day – 7am to 6pm; Evening – 6pm to 10pm and Night – 10pm to 7am.)

All walls and floors separating units must have a weight sound reduction index ( $R_w$ ) of not less than 55, and an impact isolation less than IIC 55 above habitable areas.

Materials with low noise penetration properties are to be used and detailed, and the location of mechanical equipment such as lift plant, air conditioning plant and pumps immediately adjacent to bedrooms is not permitted.

(Reason: To comply with best practice standards for residential acoustic amenity)



**Access for People with Disabilities**

- C20. Ramps and access for people with disabilities are to be provided to and within the entire building. Consideration must be given to the means of dignified and equitable access from public places to adjacent buildings, to other areas within the building and to footpath and roads. Compliant access provisions for people with disabilities shall be clearly shown on the plans submitted with the Construction Certificate. All details shall be prepared in consideration of, and construction completed to achieve compliance with the provisions of the Disability Discrimination Act, and the relevant provisions of AS1428.1 and AS1428.4.

(Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards)

**Energy Efficiency Devices**

- C21. The following energy efficiency devices are to be installed within the development:
- a. Gas boosted solar, heat pump or electricity boosted solar, instantaneous gas or high efficiency centralised gas hot water heating system.
  - b. Dual flush toilets.
  - c. Low flow taps and showerheads.

Details are to be submitted for approval with the Construction Certificate.

(Reason: To promote the use of energy efficient appliances)

**Basix Commitments**

- C22. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. Details and plans demonstrating compliance with these requirements are to be provided with the Construction Certificate.

In this condition:

- (a) relevant BASIX Certificate means:
  - (i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or

- (ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
  - (b) BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.
- (Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

### **Underground Electricity and Other Services**

- C23. All electricity provision to the site is to be designed in conjunction with Energy Australia so that it can be connected underground. Any street lighting being replaced at the applicant's cost. Details to be shown on plans submitted and approved with the Construction Certificate.
- (Reason: To provide infrastructure that facilitates the future improvement of the streetscape by relocation of overhead lines below ground)

### **Exhaust Fumes from Car Park**

- C24. Any exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1. Details demonstrating compliance are to be provided with the Construction Certificate.
- (Reason: To preserve community health and ensure compliance with acceptable standards)

### **Adaptable Housing**

- C25. Proposed 10% of apartments are to be designed with accessible features for disabled persons, and to incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and lever door handles and taps; such features to be designed generally in accordance with Australian Standards 1428.1 and 4299. Details demonstrating compliance are to be submitted with the Construction Certificate.
- (Reason: To ensure equity of access and availability of accommodation in the future for an ageing population)

### **S94 Contributions**

- C26. A contribution pursuant to the provisions of Section 94 of the Environmental Planning and Assessment Act 1979, as specified under the North Sydney Section 94 Contribution Plan for the services detailed in column A and, for the amount detailed in column B shall be made to Council.



<b>A</b>	<b>B (\$)</b>
Administration	\$6,109.72
Child Care Facilities	\$4,033.58
Community Centres	\$33,244.46
Library Acquisition	\$6,089.65
Library Premises & Equipment	\$18,909.08
Multi Purpose Indoor Sports Facilities	\$4,745.57
Open Space Acquisition	\$244,462.22
Open Space Increased Capacity	\$484,565.96
Olympic Pool	\$15,456.76
Public Domain Improvements	\$98,314.20
Traffic Improvements	\$17,265.09
<b>The total contribution is</b>	<b><u>\$933,196.29</u></b>

The contribution SHALL BE paid prior to determination of the application for Construction Certificate, where applicable.

The above amount, if not paid within one calendar year of the date of this consent, shall be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

A copy of the North Sydney Section 94 Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at [www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au).

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new development)

### **Security Bond Schedule**

C27. All fees and security bonds in accordance with the schedule below must be paid or in place prior to the issue of the required Construction Certificate:

<b>SECURITY BONDS</b>	<b>AMOUNT (\$)</b>
Completion of required infrastructure works	\$52,000.00
Damage security	\$26,000.00
<b>TOTAL BONDS</b>	<b>\$78,000.00</b>
<b>FEES</b>	
Section 94 contribution	\$933,196.29
<b>TOTAL FEES</b>	<b>\$933,196.29</b>

(Reason: Compliance with the development consent)

**Bonds**

- C28. Council will accept a bank guarantee for the purpose of any security bond imposed by these conditions of consent. Such bank guarantee shall be in a form acceptable to the Council and shall be in place prior to the issuing of any Construction Certificate and shall remain in place until the submission of the certificate required prior to the occupancy of the completed works.

(Reason: Information, Protection of infrastructure and the environment)

**Bicycle Storage and Parking**

- C29. The bicycle storage area shall accommodate a minimum of twenty nine (29) bicycle lockers, and seven (7) bicycle rails shall be provided, such bicycle storage lockers and bicycle rails to be designed in accordance with AS 2890. Details demonstrating compliance are to be submitted to the Certifying Authority for approval with the Construction Certificate.

(Reason: To promote and provide facilities for alternative forms of transport)

**Motorcycle Parking**

- C30. The parking layout shall provide a minimum of seven motorcycle parking spaces, each space being a minimum of 1.2 metres x 2.5 metres. Details demonstrating compliance are to be provided with the Construction Certificate.

(Reason: To promote and provide facilities for alternative forms of transport)

**Parking for People with Disabilities**

- C31. A total of two (2) car-parking spaces for use by persons with a disability shall be provided as part of the total car-parking requirements. Consideration must be given to the means of access from the car-parking spaces to adjacent buildings, to other areas within the building and to footpath and roads and shall be clearly shown on the plans submitted to the Certifying Authority for approval with the Construction Certificate. All details shall be prepared in consideration of, and construction completed in accordance with Australian Standard AS2890.1 to achieve compliance with the Disability Discrimination Act, and the relevant provisions of AS1428.1 and AS1428.4.

(Reason: To ensure equity of access and appropriate facilities are available for people with disabilities in accordance with Federal legislation)



**Line Marking**

- C32. A maximum of seventy two (72) off-street car-parking spaces, together with access driveways, shall be constructed, paved, line marked and signposted in accordance with the approved development plans, appropriate Australian Standards and industry best practice as appropriate. The plans shall also nominate the allocation of parking spaces for specific purposes as required by conditions of this consent. A certificate prepared and certified by an appropriately qualified and practising Civil Engineer for the construction of these areas in accordance with this requirement shall be submitted to the Certifying Authority for approval with the Construction Certificate.

(Reason: To ensure ongoing compliance with this development consent and Australian Standards relating to manoeuvring and access of vehicles)

**Reflectivity Index of Glazing**

- C33. The reflectivity index (expressed as a percentum of the reflected light falling upon any surface) of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%. Written confirmation of the reflectivity index of materials is to be submitted with the Construction Certificate.

(Note: The reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement.

(Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development)

**Roofing Materials- Reflectivity**

- C34. Roofing materials shall be factory pre-finished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The Certifying Authority shall undertake an assessment in relation to the proposed roofing material to determine the potential for glare nuisance or excessive reflectivity to adjoining or nearby properties, relative to the chosen roofing material. The Certifying Authority shall provide certification with the Construction Certificate that the selected roofing material will not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties

(Reason: To ensure that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development)

**No External Service Ducts**

- C35. Service ducts shall be provided within the building to keep external walls free of plumbing, drainage or any other utility installations. Details demonstrating compliance are to be provided in the Construction Certificate documentation.

(Reason: To ensure quality built form of the development)

**Medium Rigid Vehicle**

- C36. The development must accommodate on-site a medium rigid vehicle, as defined in Australian Standard 2890.2, for use by the residential and commercial residents and tenants of the building in the loading area at the rear of the site.

Details demonstrating compliance with this requirement are to be approved by the Certifying Authority with the Construction Certificate.

(Reason: To ensure that small removal vans can be accommodated on site)

**Privacy**

- C37. Privacy devices shall be provided in the form of fixed louver screens (openable) over the bedroom windows to apartments 101, 102, 202, 203, 302, 303, 402, 403, 502 and 503, obscure balustrade glazing and/or solid balustrades on the eastern façade of the building up to level 6, to restrict overlooking of No.3 McLaren Street.

Details demonstrating compliance are to be provided to the Certifying Authority for approval of the Construction Certificate.

(Reason: To ensure that the eastern apartments do not impact on the privacy of residents of Nos. 3 McLaren Street)

**Angelo Street Kerb and Gutter**

- C38. The new kerb and gutter at the rear of 239-247 Pacific Highway is to align with the existing kerb and gutter alignment at 22 Angelo Street (231 Pacific Highway).

(Reason: To provide for public Infrastructure)

**Driveway Access**

- C39. The driveway access to the proposed car park and loading dock is to comply with Council's Infrastructure Specification for Roadworks, Drainage and Miscellaneous Works and Council's Vehicular Access Application.

(Reason: To provide for public Infrastructure)

**Angelo Street Setback**

- C40. A minimum of 1.5m setback shall be maintained across the Angelo Street frontage at ground level with no columns, substation, fire hydrant or other walls or structures (except planter boxes) within the setback.

(Reason: Streetscape)



**Building within Boundaries**

- C41. The whole of the building other than the street awning to the Highway shall be wholly within the boundaries of the site.

Details demonstrating compliance with this requirement are to be approved by the Certifying Authority with the Construction Certificate.

(Reason: To ensure that the building does not encroach the street or adjoining properties)

**D. Conditions That Must Be Addressed Prior To Any Commencement**

**Excavation/Demolition**

- D1. No demolition or excavation shall be carried out until a Construction Certificate has been issued.

(Reason: To ensure compliance with statutory provisions)

**Public Liability Insurance – Works on Public Land**

- D2. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for North Sydney Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)

**E. Conditions that Must be Complied With During Demolition and Building Work**

**Approved Materials**

- E1. The colour, texture and substance of all external materials shall be generally as detailed in the application.

(Reason: To ensure compliance with the terms of this development consent)

**Progress Survey - Major Development**

- E2. In order to ensure compliance with approved plans, a Survey Certificate, prepared to Australian Height Datum, shall be prepared by a Registered Surveyor showing the following:

- (a) at the completion of excavation, prior to the placement of any footings, showing the completed level of the excavation and its relationship to the boundaries;
- (b) prior to placement of concrete at the ground floor level, showing the level of the formwork and its relationship to boundaries including relevant footpath and roadway levels;
- (c) prior to placement of concrete at each fifth floor level showing the principal level of the formwork and the intended relationship of the completed works to the boundary;
- (d) prior to roofing, or completion of the highest point of the building showing the anticipated level of the completed work and its relationship to the boundary;
- (e) at completion, works showing the relationship of the building to the boundary and showing the maximum height of the overall works and the height of the principal roof elements.

Progress certifications in response to points (a) through to (e) shall be provided to the Principal Certifying Authority at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveals discrepancies between the approved plans and the proposed works.

(Reason: To ensure compliance with approved plans)

#### **Noise**

- E3. Noise emissions and vibration must be minimised where possible and work is to be carried out in accordance with Environment Protection Authority guidelines for noise emissions from construction/demolition works and must also comply with the provisions of the Protection of the Environment Operations Act 1997.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

#### **Dust Emission and Air Quality**

- E4. Materials must not be burnt on the site.

Vehicles entering and leaving the site with soil or fill material must be covered.

Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction. Odour suppression measures must be carried out so as to prevent nuisance occurring at adjoining properties.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)



**Vibration from Works**

- E5. Vibration from works is to be undertaken in accordance with industry best practice, and to ensure excessive levels of vibration do not occur to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

**Applicant's Cost of Work on Council Property**

- E6. The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(Reason: To ensure the proper management of public land and funds)

**No Removal of Trees on Public Property**

- E7. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved in its consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

(Reason: Protection of existing environmental infrastructure and community assets)

**Special Permits**

- E8. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development are to occur entirely on the property. The applicant, owner or builder must apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property pursuant to S138 of the Roads Act. A minimum of forty-eight (48) hours notice is required for any permit:-

**(1) On-street mobile plant**

E.g. cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of operation, the area of operation, etc. Separate permits are required for each occasion and each piece of equipment. It is the applicant's, owner's and builder's responsibilities to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

**(2) Hoardings**

Permits are required to erect Class A and Class B hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

**(3) Storage of building materials and building waste containers (skips) on Council's property**

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given. Storage of building materials and waste containers on open space reserves and parks is prohibited.

**(4) Kerbside restrictions, construction zones**

The applicant's attention is drawn to the existing kerbside restrictions adjacent to the development. Should the applicant require alteration of existing kerbside restrictions, or the provision of a construction zone, the appropriate application must be made and the fee paid. Applicants should note that the alternatives of such restrictions may require referral to Council's Traffic Committee and may take considerable time to be resolved. An earlier application is suggested to avoid delays in construction programs.

(Reason: Proper management of public land)

**Construction Hours**

E9. Building construction shall be restricted to within the hours of 7.00am to 5.00pm Monday to Friday and on Saturday to within the hours of 8.00am to 1.00pm inclusive, with no work on Sundays and Public Holidays.

Demolition and excavation works shall be restricted to within the hours of 8.00am to 5.00pm Monday to Friday only. (Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

The builder and excavator shall display, on-site, their twenty-four (24) hour contact telephone number, which is to be clearly visible and legible from any public place adjoining the site.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

**Out of Hours Work Permits**

E10. Where it is necessary for works to occur outside those hours allowed by these conditions, approval for such will be subject to issue of a permit on each occasion from Council's Customer Services Centre. Such permit must be obtained and the appropriate fee paid at least two (2) clear working days in advance of each relevant date. Such occurrence shall be limited to two occasions per calendar month and shall only be approved if public safety or convenience is at risk. Any further variation shall require the lodgement and favourable determination of a modification application pursuant to Section 96 of the Environmental Planning and Assessment Act 1979.



(Note: Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.)

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

### **Installation and Maintenance of Sediment Control**

E11. Techniques used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with the "North Sydney Council Guidelines on Sediment and Erosion Control". All techniques shall remain in proper operation until all development activities have been completed and the site fully stabilised.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

### **Occupation Certificate Required**

E12. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of those parts of the building.

(Reason: To ensure compliance with the provisions of the Environmental Planning and Assessment Act)

### **Prohibition on Use of Pavements**

E13. Building materials shall not be placed on Council's footpaths, roadways, parks or grass verges and a suitable sign to this effect shall be erected adjacent to the street alignment.

(Reason: To ensure public safety and amenity on public land)

### **Plant & Equipment Kept Within Site**

E14. All plant and equipment used in the erection of the building, including concrete pumps, wagons, lifts, mobile cranes, etc, shall be situated within the boundaries of the site and so placed that all concrete slurry, water, debris and the like shall be discharged onto the building site, and is to be contained within the site boundaries.

(Reason: To ensure public safety and amenity on public land)

**Existing Parking Restrictions Must Be Maintained**

- E15. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions are only to be approved via the North Sydney Local Traffic Committee. The Applicant will be held responsible for any breaches of this condition, and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerbside parking provisions are not compromised during works)

**Service Adjustments**

- E16. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the person acting on the consent and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of the development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.

(Reason: To ensure the service requirements are met)

**Public Safety and Amenity in vicinity of Works**

- E17. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials and plant must not be stored in the road reserve without approval. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "*Traffic Control Devices for Work on Roads*". If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.

(Reason: To ensure public amenity and safety during works)



**Temporary Disposal of Stormwater Runoff**

- E18. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures shall be to the satisfaction of the Principal Certifying Authority when conducting mandatory inspections.

(Reason: Stormwater control during construction)

**Geotechnical Stability during Works**

- E19. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure. Geotechnical aspects of the development work, namely:

- Appropriate excavation method and vibration control,
- Support and retention of excavated faces,
- Hydrogeological considerations.

Must be undertaken in accordance with the recommendations of an appropriate professional and all subsequent geotechnical inspections carried out during the excavation and construction phase. Approval must be obtained from all affected property owners, including North Sydney Council where rock anchors (both temporary and permanent) are proposed below adjacent private or public property.

(Reason: Ensure appropriate professional are engaged at appropriate stages during construction)

**Council Inspection of Public Infrastructure Works**

- E20. During the works on public infrastructure reverting to Councils care and control, Councils development engineer must undertake inspections as specified by the driveway crossing permit issued by Council pursuant to the *Roads Act*. A minimum of 48 hours notice must be given to Council to book an inspection. Contact Council's Development Engineers to arrange. Work must not proceed until the works or activity covered by the inspection is approved.

(Reason: To ensure quality of construction joints and connections in the drainage system)

**F. Operational Conditions imposed under EP&A Act and Regulations and other relevant Legislation**

**Building Code of Australia**

- F1. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

(Reason: Prescribed - Statutory)

**Home Building Act**

- F2. (1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:

- (a) in the case of work to be done by a licensee under that Act:
  - (i) has been informed in writing of the licensee's name and contractor licence number, and
  - (ii) is satisfied that the licensee has complied with the requirements of the Home Building Act, or
- (b) in the case of work to be done by any other person:
  - (i) has been informed in writing of the person's name and owner-builder permit number, or
  - (ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

Note: The amount referred to in paragraph (b)(ii) is prescribed by regulations under the Home Building Act 1989. As at the date on which this Regulation was Gazetted, that amount was \$3,000. As those regulations are amended from time to time, that amount may vary.

- (2) A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.



- (3) If arrangements for doing residential building work are changed while the work is in progress so that the information submitted to Council is out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

(Reason: Prescribed - Statutory)

**Excavation/Demolition**

- F3. (1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- (2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- (3) Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

(Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage)

**Retaining Walls & Drainage**

- F4. If the soil conditions require it:
- (a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
- (b) adequate provision must be made for drainage in accordance with the provisions of AS3500.3.2.

(Reason: To ensure appropriate measures are in place to address site conditions and provide appropriate site drainage)

**Support for Neighbouring Buildings**

- F5. (1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:-
- (a) must preserve and protect the building from damage;
- (b) if necessary, must underpin and support the adjoining building in an approved manner Subject to adjoining owner's consent); and

- (c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (2) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
  - (3) In this clause, allotment of land includes a public road and any other public place.
- (Reason: To ensure adjoining owner's property rights are protected and protect adjoining properties from potential damage)

**Protection of Public Places**

- F6. (1) If the work involved in the erection or demolition of a building:-
- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
  - (b) building involves the enclosure of a public place,
- a hoarding and site fencing must be erected between the work site and the public place.
- (2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
  - (3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
  - (4) Any such hoarding, fence or awning is to be removed when the work has been completed.
  - (5) No access across public reserves or parks is permitted.
- Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained. Any application needs to be accompanied by plans indicating the type of hoarding and its layout.

Fees are assessed and will form part of any approval given. These fees must be paid prior to the approval being given.

Approval for hoardings will generally only be given in association with approved building works, maintenance or to ensure protection of the public. An application form for a Hoarding Permit can be downloaded from Council's website.

- (Reason: To ensure public safety and the proper management of public land)



**Site Sign**

- F7. (1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- (a) stating that unauthorised entry to the work site is prohibited;
  - (b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
  - (c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- (2) Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.
- (3) This condition does not apply to building works being carried out inside an existing building.

(Reason: Statutory requirement)

**Toilets**

- F8. (1) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- (2) Each toilet provided:
- (a) must be a standard flushing toilet, and
  - (b) must be connected:
    - (i) to a public sewer; or
    - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
    - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.
- (3) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

(4) In this clause:

**accredited sewage management facility** means a sewage management facility to which Division 4A of Part 3 of the Local Government (Approvals) Regulation 1993 applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the Regulation.

**approved by the Council** means the subject of an approval in force under Division 1 of Part 3 of the Local Government (Approvals) Regulation 1993.

**public sewer** has the same meaning as it has in the Local Government (Approvals) Regulation 1993.

**sewage management facility** has the same meaning as it has in the Local Government (Approvals) Regulation 1993.

(Reason: To ensure adequate facilities are provided for workers on the site)

**G. *Conditions which Must be Complied With Prior to Issue of Occupation Certificate***

**Infrastructure Repair and Completion of Works**

G1. Prior to issue of the final occupation certificate and return of any bond lodged with Council, all required works in the road reserve must be completed in full and any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of Public assets)

**Utility Services**

G2. All utility services shall be adjusted, to the correct levels and/or location/s required by this consent, prior to issue of a final occupation certificate. This shall be at no cost to Council.

(Reason: To ensure compliance with the terms of this consent)

**Works as Executed Drawings – Stormwater**

G3. Prior to issue of the final occupation certificate, the applicant shall obtain a works-as-executed survey drawing (W.A.E.) of the completed site drainage system. The W.A.E. drawing shall show the alignment, depth and grade of the stormwater drainage pipelines, pits and ancillary plumbing. The W.A.E shall be reviewed by a qualified civil engineer and certification provided to the PCA that the as-built system achieves the design intent of the plans approved with the Construction Certificate. This certification shall be provided with the W.A.E survey.

(Reason: Ensure compliance and provide record of completed drainage system for future reference and maintenance purposes)



**House Numbering (Dwellings)**

- G4. Prior to any Occupation Certificate being issued for the building works, the person acting upon this consent must apply to North Sydney Council and receive written confirmation of the allocated street address(es) or house number(s) for the completed project. These are the numbers that will be recorded in Council records and must be displayed at the property in accordance with the provisions of AS/NZS 4819:2003 – Geographic information – Rural and urban addressing.

(Reason: To ensure that Council records are accurate, and that house numbering complies with the requirements of Council's House Numbering Policy. Proper house numbering also assists emergency services in readily locating properties.)

**Damage to Adjoining Properties**

- G5. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works. Where damage occurs to adjoining property all necessary repair or suitable agreement for necessary repairs are to be undertaken by the applicant in consultation with and with the consent of the affected property owner prior to the issue of an Occupation Certificate.

(Reason: To ensure adjoining owner's property rights are protected)

**Disposal Information**

- G6. Upon completion of works and prior to occupation, the person entitled to act on this consent shall provide to Council the following information;
- (a) the total tonnage of all waste and excavated material disposed of from the site, and
  - (b) the disposal points and methods used.

Such information shall be categorised in accordance with the forgoing and is required for waste research purposes.

(Reason: To assist in the collection of data for research purposes related to environmental management)

**Undergrounding of Telecommunications Services**

- G7. The developer shall submit to the Principal Certifying Authority a letter from Telstra and/or Optus confirming that satisfactory arrangements have been made for the provision of underground telephone and cable television services, prior to the release of the Subdivision Certificate or issuing of a final Occupation Certificate.

(Reason: Provision of telecommunication facilities in a manner that facilitates the future underground provision of cable services)

**Operational Transport Management Plan**

- G8. An Operational Transport Management Plan for heavy vehicles including garbage vehicles, commercial/restaurant deliveries and residential removalists to the site shall be prepared and submitted to Council for approval by the North Sydney Traffic Committee prior to the issue of an Occupation Certificate.

(Reason: To ensure that heavy vehicles visiting the site have minimal impact on the road network)

**Right of Way through Site**

- G9. The applicant shall create an easement pursuant to Section 88B instrument under the Conveyancing Act 1919 to provide for public rights of access a minimum of 2m wide as shown on the submitted plans (plan A.103) which achieves the objectives of:-

- enabling the area to be maintained as a public arcade;
- enabling the public to use that area for the purpose of public access at all the times the commercial and retail parts of the building are open;
- ensure the rights are not subject to change or variation except with the prior consent of Council.

The public access rights are to include:-

- the capacity to form a public access link between the Pacific Highway and Angelo Street between the hours of 7am and 10pm Mondays to Saturdays and 9am and 8pm Sundays;
- terms and conditions which both achieve the objectives identified above and are to the satisfaction of Council's Director of Planning and Environmental Services.

The easement shall be prepared, executed and registered at the sole cost of the applicant, including the costs of Council in obtaining advice, producing documents or otherwise facilitating the preparation, execution and registration of the required documents, shall bind all successors in title and shall only be subject to variation at the discretion of the Council. The easement shall be for the life of the building and not in perpetuity.

(Reason: Public access and internal amenity)

***H. Conditions that Must be Complied with Prior to Final Completion***

**Allocation of Spaces**

- H1. Seventy two (72) carparking spaces shall be provided and maintained at all times on the subject site. The spaces shall be allocated in the following proportions:

- 64 - Residential (including 2 disabled spaces)
- 8 - Non residential spaces



Such spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Carparking provided shall only be used in conjunction with the uses contained within the development and in the case of Strata subdivision, shall be individually allocated to residential units. Under no circumstances shall Strata By-Laws be created to grant exclusive use of nominated car share parking spaces to occupants/owners of units or tenancies within the building.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

### **Required Tree Planting**

- H2. Trees in accordance with the schedule hereunder shall be planted in Council's nature strip/footpath prior to the issue of the final Occupation Certificate required on completion of works: -

#### **Schedule**

<u>Tree Species</u>	<u>Location</u>	<u>Pot Size</u>
3 x Platanus X hybrida (London Plane)	To the satisfaction of Council.	200 litre

The installation of such trees, their current health and their prospects for future survival shall be certified upon completion by an appropriately qualified horticulturalist.

(Reason: To ensure that replacement plantings are provide to enhance community landscaped amenity and cultural assets)

### ***I. Ongoing Conditions that Must be Complied with at All Times***

#### **Separate Occupation**

- I1. The specific commercial/retail use or occupation of the premises shall be the subject of further development approval for such use or occupation.

(Reason: To ensure development consent is obtained prior to that use commencing)

#### **Building Signage**

- I2. A separate development application is required for any building signage.

(Reason: To ensure the signage is in accordance with Council's policy)

### Loading Within Site

13. All loading and unloading operations shall be carried out wholly within the confines of the site, at all times with all vehicles entering and leaving the site in a forward direction.

(Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian amenity)

### Delivery Hours

14. No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

(Reason: To ensure the acoustic amenity of surrounding properties)

DATE OF DETERMINATION:

6/7/11

DATE FROM WHICH CONSENT OPERATES:

18/10/11

DATE CONSENT LAPSES:

18/10/16

### ADVISINGS

#### Notes

- (a) Council is always prepared to discuss its decisions, and in this regard please do not hesitate to contact **Geoff Mossemeneer**. However, if you wish to pursue your rights of appeal in the Land and Environment Court pursuant to Section 97 of the Act, you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, instead of a full Court hearing, subject to any further advice to the contrary from Council's Solicitors and senior staff. Such an approach is less adversarial, it achieves a quicker decision than would be the case through a Court hearing, and it can give rise to considerable cost and time savings for all parties involved. The use of the Section 34 Conference approach requires the appellant to agree, in advance and in writing, that the Court appointed assessor will be given the full authority to completely determine the matter at the conference.
- (b) You are advised that changes to the external configuration of the building, changes to the site layout, density and unit configuration internal changes to the proposed building or any changes to the proposed operation of a use **MAY** require the submission of a modification under Section 96 of the Environmental Planning & Assessment Act 1979. Any such changes warranting a State Environmental Planning Policy No. 1 objection (where no objection was previously required) may not be able to be determined under Section 96 of the Act but may need to be subject of a separate Development Application.



Please bear this in mind before preparing documentation in support of a Construction Certificate application. Council staff would be pleased to assist in identifying such changes which may require the submission of a modification of a Development Application under Section 96 of the Environmental Planning & Assessment Act.

- (c) Section 82A of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination. The review must be completed within six (6) months after the date of receipt of this Notice of Determination. If you intend to lodge a request for a review it is recommended that the request, together with payment of the appropriate fees, is lodged as early as possible in order to allow sufficient time for notification, assessment, reporting, etc, prior to the expiration of the 6 month review period. It is recommended that the applicant discuss any request for a review of the determination with Council Officers before lodging such a request.
- (d) Prior to commencing any building, subdivision or associated constructions works, the following provisions of the Environmental Planning and Assessment Act 1979 (the 'Act') are to be complied with:
  - (i) Relevant approvals must be obtained under the provisions of Section 138 of the Roads Act, 1993 for any works on public roads which are not the subject of this consent.
  - (ii) A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
  - (iii) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
  - (iv) Council is to be notified at least two (2) days before the intention to commence building works, in accordance with Section 81A(2)(c) of the Act.
- (e) The applicant may apply to the Council or an Accredited Certifier for the issuing of a Construction Certificate and to be the Principal Certifying Authority to monitor compliance with the approval and issue necessary documentary evidence or certificate/s.

**(f) Sydney Water Requirements**

You are advised that any building works may also require prior approval from Sydney Water. Further details can be obtained from the Sydney Water website at [www.sydneywater.com.au](http://www.sydneywater.com.au).

**(g) Telecommunications**

Prior to the installation of any telephone cabling contact is to be made with Construction Research Australia Pty Ltd on telephone 1800 180 118 or Sydney 9428 1254.

(h) **Dial before you dig**

Before you dig call "Dial before you dig" on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and the distance to the nearest cross street) for underground utility services information for any excavation areas.

(i) **Cooking Oils**

Cooking Oils used within the food shop should not contain trans fatty oils as these present known long term health risks.

Council's officers can provide these services, and further information, including a copy of the terms of agreement and fee schedule, can be obtained by telephoning Council's Customer Service Centre on **9936 8471**.

*Please note that all building work must be carried out fully in accordance with the development consent and conditions of approval and it is an offence to carry out unauthorised building work or building work that is not in accordance with Council's approval.*

*An offence under the Environmental Planning and Assessment Act 1979 and Regulations is subject to a penalty up to \$110,000 and \$11,000 respectively.*

*Council may also serve a notice and an order to require the demolition/removal of unauthorised building work or to require the building to be erected fully in accordance with the development consent.*

*On the spot penalties will be imposed for works which are carried out in breach of this consent, or without consent.*

*An amended development application is required to be submitted to and approved by Council, and a Construction Certificate is to be obtained from the Council or an Accredited Certifier, prior to commencement of any variations from the approved plans and conditions of approval.*

18/10/11

DATE



Signature on behalf of consent authority  
Geoff Mossemear  
EXECUTIVE PLANNER